

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	Jaakkola et al.	Examiner:	Nguyen, K.
Serial No.:	10/748,981	Group Art Unit:	2617
Filed:	December 30, 2003	Docket No.:	KOLS.080PA
Confirmation No.:	8840	Customer No.:	76385
Title:	Handover		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being transmitted to the U.S. Patent and Trademark Office via the Office electronic filing system in accordance with 37 CFR 1.6(a)(4) on June 15, 2009.

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**APPELLANT'S STATEMENT IN SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This statement is presented by Appellant in compliance with the USPTO OG Notice of 12 July 2005, regarding the New Pre-Appeal Brief Conference Pilot Program. Appellant is requesting a pre-appeal conference on the belief that the rejection of record is clearly not proper and is without basis. Appellant's request is based upon a clear legal or factual deficiency in the rejection, rather than an interpretation of the claims or the prior art teachings. As such, Appellant believes this request for pre-appeal review is appropriate.

The sole § 103(a) rejection is based on the teachings of WO 01/63843 to Balogh (hereinafter "Balogh") as combined with those of U.S. Patent No. 6,269,395 to Blatherwick *et al.* (hereinafter "Blatherwick").

While Appellant has multiple issues for appeal, the primary purpose for submitting this particular request for review concerns omissions of essential elements required for a *prima facie* obviousness rejection. Although each of the independent claims (Claims 1, 9, 17, and 19) is rejected in the final Office Action (dated March 16, 2009) in view of the combination of Balogh and Blatherwick, neither Balogh nor Blatherwick teaches or suggests certain of the claimed limitations.

The example limitations at issue for purposes of this request for review, using independent Claim 1 as an example, relate to:

- 1) comparing, in the terminal, a current network identifier identifying a target network of a current connection setting of the terminal and associated with the currently applied at least one connection setting to the stored network identifiers associated with other available connection settings;
- 2) selecting at least one connection setting associated with the same network identifier as the network identifier associated with the currently applied at least one connection setting; and
- 3) carrying out a handover related function to continue providing access to the target network via a new access point by using the selected at least one connection setting.

To establish a *prima facie* § 103(a) rejection of at least the independent claims, these limitations must be present in Balogh or Blatherwick, as the Examiner alleges.

1) Balogh does not teach or suggest a currently applied connection setting.

The Examiner contends that Balogh teaches the claimed comparing of a current network identifier identifying a target network of a current connection setting associated with the currently applied connection setting to stored network identifiers associated with other available connection settings (emphasis added). However, the cited portion of Balogh teaches comparing network names when a user wishes to *originate* a connection to a locally available network (Balogh, page 9, lines 7-10). As acknowledged at page three of the final Office Action, Balogh's mobile station scans for information of available networks that "may be used" and compares the potential network names to network names in pre-stored information sets to identify available access networks and information settings for accessing the available access networks (Balogh, page 9, lines 33-35). Since Balogh teaches originating/establishing a new connection, Balogh does not teach or suggest a currently applied connection setting or comparison of a current network identifier identifying a target network of a current connection setting associated with the currently applied connection setting, as claimed. As Blatherwick has also not been shown to compare a current network identifier, as claimed, neither of the asserted references has been shown to teach or suggest at least these limitations. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejection is improper. Appellant accordingly requests that the rejection be reversed.

2) The Examiner’s “flip-flop” on the asserted teachings of Balogh is incorrect.

The Examiner previously admitted at page three of the Office Action dated July 14, 2008, that Balogh fails to specifically disclose selecting at least one connection setting associated with the same network identifier as the network identifier associated with the currently applied at least one connection setting (emphasis added). However, in the final Office Action, the Examiner now contends that Balogh discloses such limitations. For the reasons set forth above, the Examiner was correct in the first instance. The cited portion of Balogh at page nine teaches to determine the available access networks and information settings for establishing a new connection. Since there is no currently applied connection setting in the cited portion of Balogh, it is not possible for Balogh to teach selecting a connection setting associated with the same network identifier associated with the currently applied connection setting, as claimed. Moreover, Appellant has previously explained that Blatherwick does not overcome this deficiency in the Examiner’s asserted combination of teachings. Again, as neither Balogh nor Blatherwick teaches or suggests the claimed limitations, the asserted combination fails to correspond to such limitations, and the § 103(a) rejection should be reversed.

3) Blatherwick does not teach or suggest carrying out a handover related function.

While the final Office Action acknowledges that Balogh fails to specifically disclose carrying out a handover related function to continue providing access to the target network via a new access point, as claimed, the assertion that Blatherwick teaches such limitations is incorrect. In contrast, the cited portion of Blatherwick at column six teaches that when a user selects a further service associated with a second service provider, the user’s computer-based system, which is already connected to a first service provider, will connect to the second service provider. The second service provider is not an access point for connecting to the first service provider and instead a new connection is established to provide the further service. Blatherwick fails to suggest replacing an original communication link with a second communication link associated with a network identifier of the first communication link to ensure continuation of the original service. Rather, Blatherwick teaches either adding a communication link or replacing an original communication link by disconnecting therefrom and connecting to a new service. Notably, Blatherwick does not include the term “handover”. As neither Balogh nor Blatherwick teaches, or is directed to, handover related functions, any combination of such teachings also fails to

correspond to at least the claim limitations directed to handover related functions. Again, without correspondence to each of the claimed limitations, the § 103(a) rejection is improper, and Appellant accordingly requests that the rejection be reversed.

It is respectfully submitted that there is an omission of an essential element needed for a *prima facie* obviousness rejection. Neither Balogh nor Blatherwick teaches or suggests at least carrying out a handover related function, as claimed. Because neither of the asserted references involves or otherwise addresses at least carrying out a handover related function, Appellant believes these claim limitations are improperly being overlooked, and consequently there is an omission of an essential element(s) required for a *prima facie* rejection.

It is Appellant's position that the Examiner's reliance on the combination of Balogh and Blatherwick as teaching carrying out a handover related function is inappropriate, as neither Balogh nor Blatherwick has been shown to address this.

Appellant believes that this statement, when viewed together with the prosecution history, sets forth clear grounds for a finding that the rejection based upon Balogh and Blatherwick is improper and without basis.

The undersigned is of record and with authority to prosecute the appeal on behalf of the Assignee.

Respectfully submitted,

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